



महाराष्ट्र शासन राजपत्र

असाधारण भाग पाच-अ

वर्ष ४, अंक २०]

सोमवार, नोव्हेंबर १९, २०१८/कार्तिक २८, शके १९४०

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असाधारण क्रमांक ५२

प्राधिकृत प्रकाशन

महाराष्ट्र विधानसभेत व महाराष्ट्र विधानपरिषदेत सादर केलेली विधेयके (इंग्रजी अनुवाद).

MAHARASHTRA LEGISLATURE SECRETARIAT

The following Bill was introduced in the Maharashtra Legislative Assembly on the 19th November, 2018 is published under Rule 117 of the Maharashtra Legislative Assembly Rules :—

L. A. BILL No. LXIII OF 2018.

A BILL

further to amend the Mumbai Municipal Corporation Act, the Maharashtra Municipal Corporations Act and the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965.

WHEREAS both Houses of the State Legislature were not in session ;

AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Mumbai Municipal Corporation Act, the Maharashtra Municipal Corporations Act and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965, for the purposes hereinafter appearing ; and, therefore, promulgated the Mumbai Municipal Corporation, the Maharashtra Municipal Corporations and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships (Amendment) Ordinance, 2018, on the 27th September 2018 ;

III of
1888.
LIX of
1949.
Mah. XL
of 1965.
Mah.
Ord. XX
of 2018.

AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature ; it is hereby enacted in the Sixty-ninth Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY.

- Short title and
commence-
ment.
1. (1) This Act may be called the Mumbai Municipal Corporation, the Maharashtra Municipal Corporations and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships (Third Amendment) Act, 2018.
 - (2) It shall be deemed to have come into force on the 27th September 2018.

CHAPTER II

AMENDMENTS TO THE MUMBAI MUNICIPAL CORPORATION ACT.

- Amendment of
section 5B of
III of 1888.
2. In section 5B of the Mumbai Municipal Corporation Act (hereinafter in this Chapter referred to as "Mumbai Corporation Act"),—
 - (a) in the first proviso, in clause (ii), for the words "six months" the words "twelve months" shall be substituted and shall be deemed to have been substituted with effect from 7th April 2015 ;
 - (b) in the second proviso, for the words "six months" the words "twelve months" shall be substituted and shall be deemed to have been substituted with effect from 7th April 2015 ;
 - (c) after the second proviso, the following proviso shall be added, namely :—

"Provided also that, in respect of the undertaking filed by any person under clause (ii) of the first proviso, before the date of commencement of the Mumbai Municipal Corporation, the Maharashtra Municipal Corporations and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships (Third Amendment) Act, 2018, the period of "six months" specified in such undertaking shall be deemed to have been substituted as "twelve months"."
- III of 1888. Mah. of 2018.
- Amendment of
section 37 of
III of 1888.
3. In section 37 of the Mumbai Corporation Act, in sub-section (2A),—
 - (a) in the first proviso, in clause (ii), for the words "six months" the words "twelve months" shall be substituted and shall be deemed to have been substituted with effect from 7th April 2015 ;
 - (b) in the second proviso, for the words "six months" the words "twelve months" shall be substituted and shall be deemed to have been substituted with effect from 7th April 2015 ;
 - (c) after the second proviso, the following proviso shall be added, namely :—

"Provided also that, in respect of the undertaking filed by any person under clause (ii) of the first proviso, before the date of commencement of the Mumbai Municipal Corporation, the Maharashtra Municipal Corporations and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships (Third Amendment) Act, 2018, the period of "six months" specified in such undertaking shall be deemed to have been substituted as "twelve months"."
- Mah. of 2018.

CHAPTER III

AMENDMENTS TO THE MAHARASHTRA MUNICIPAL CORPORATIONS ACT.

- Amendment of
section 5B of
LIX of 1949.
4. In section 5B of the Maharashtra Municipal Corporations Act (hereinafter in this Chapter referred to as "Maharashtra Corporations Act"),—
 - (a) in the first proviso, in clause (ii), for the words "six months" the words "twelve months" shall be substituted and shall be deemed to have been substituted with effect from the 7th April 2015 ;
- LIX of 1949.

(b) in the second proviso, for the words “six months” the words “twelve months” shall be substituted and shall be deemed to have been substituted with effect from 7th April 2015 ;

(c) after the second proviso, the following proviso shall be added, namely :—

“Provided also that, in respect of the undertaking filed by any person under clause (ii) of the first proviso, before the date of commencement of the Mumbai Municipal Corporation, the Maharashtra Municipal Corporations and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships (Third Amendment) Act, 2018, the period of “six months” specified in such undertaking shall be deemed to have been substituted as “twelve months”.”.

Mah.
of 2018.

5. In section 19 of the Maharashtra Corporations Act, in sub-section (1B),—

Amendment of
section 19 of
LIX of 1949.

(a) in the first proviso, in clause (ii), for the words “six months” the words “twelve months” shall be substituted and shall be deemed to have been substituted with effect from 7th April 2015 ;

(b) in the second proviso, for the words “six months” the words “twelve months” shall be substituted and shall be deemed to have been substituted with effect from 7th April 2015 ;

(c) after the second proviso, the following proviso shall be added, namely :—

“Provided also that, in respect of the undertaking filed by any person under clause (ii) of the first proviso, before the date of commencement of the Mumbai Municipal Corporation, the Maharashtra Municipal Corporations and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships (Third Amendment) Act, 2018, the period of “six months” specified in such undertaking shall be deemed to have been substituted as “twelve months”.”.

Mah.
of 2018.

CHAPTER IV

AMENDMENTS TO THE MAHARASHTRA MUNICIPAL COUNCILS, *NAGAR PANCHAYATS* AND INDUSTRIAL TOWNSHIPS ACT, 1965.

Mah. XL
of 1965.

6. In section 9A of the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965 (hereinafter in this Chapter referred to as “Municipal Councils Act”),—

Amendment of
section 9A of
Mah. XL of
1965.

(a) in the first proviso, in clause (ii), for the words “six months” the words “twelve months” shall be substituted and shall be deemed to have been substituted with effect from 7th April 2015 ;

(b) in the second proviso, for the words “six months” the words “twelve months” shall be substituted and shall be deemed to have been substituted with effect from 7th April 2015 ;

(c) after the second proviso, the following proviso shall be added, namely :—

“Provided also that, in respect of the undertaking filed by any person under clause (ii) of the first proviso, before the date of commencement of the Mumbai Municipal Corporation, the Maharashtra Municipal Corporations and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships (Third Amendment) Act, 2018, the period of “six months” specified in such undertaking shall be deemed to have been substituted as “twelve months”.”.

Mah.
of 2018.

Amendment of
section 51-1B
of Mah. XL of
1965.

7. In section 51-1B of the Municipal Councils Act,—

(a) in the first proviso, in clause (ii), for the words “six months” the words “twelve months” shall be substituted and shall be deemed to have been substituted with effect from 7th April 2015 ;

(b) in the second proviso, for the words “six months” the words “twelve months” shall be substituted and shall be deemed to have been substituted with effect from 7th April 2015 ;

(c) after the second proviso, the following proviso shall be added, namely :—

“Provided also that, in respect of the undertaking filed by any person under clause (ii) of the first proviso, before the date of commencement of the Mumbai Municipal Corporation, the Maharashtra Municipal Corporations and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships (Third Amendment) Act, 2018, the period of “six months” specified in such undertaking shall be deemed to have been substituted as “twelve months”.”.

Mah.
of 2018.

CHAPTER V

MISCELLANEOUS

Saving as to
certain
elections.

8. Nothing in this Act shall affect the elections conducted by the State Election Commission for conducting the elections or any programme declared by it therefor, prior to the date of commencement of the Mumbai Municipal Corporation, the Maharashtra Municipal Corporations and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships (Third Amendment) Act, 2018, for filling up the resultant vacancy in view of the provisions of section 5B or sub-section (2A) of section 37 of the Mumbai Municipal Corporation Act, section 5B or sub-section (1B) of section 19 of the Maharashtra Municipal Corporations Act, section 9A or section 51-1B of the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965, as it stood prior to such date of commencement.

Mah.
of 2018.

III of
1888.
LIX of
1949.
Mah. XL
of 1965.

Saving as to
certain
disqualification.

9. Any person, who has obtained the Caste Certificate and validity certificate but has not filed such certificate prior to the date of commencement of this Act, shall not be deemed to be disqualified under the provisions of the relevant Municipal law, if he submits such certificate within a period of fifteen days from the date of commencement of this Act :

Provided that, the provisions of this section shall not apply where the State Election Commission has already prior to the date of commencement of this Act held elections to fill the vacancy of such person or declared the programme for holding of such election.

Power to
remove
difficulty.

10. (1) If any difficulty arises in giving effect to the provisions of the Mumbai Municipal Corporation Act, the Maharashtra Municipal Corporations Act or, as the case may be, the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965, as amended by this Act, the State Government may, as the occasion arises, by an Order published in the *Official Gazette*, give such directions not inconsistent with the provisions of the said Acts as amended by this Act, as may appear to it to be necessary or expedient for the purpose of removing the difficulty :

III of
1888.
LIX of
1949.
Mah. XL
of 1965.

Provided that, no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of the State Legislature.

Mah. Ord. XX of 2018. **11.** (1) The Mumbai Municipal Corporation, the Maharashtra Municipal Corporations and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships (Third Amendment) Ordinance, 2018, is hereby repealed. Repeal of Mah. Ord. XX of 2018 and saving.

III of 1888. LIX of 1949. Mah. XL of 1965. (2) Notwithstanding such repeal, anything done or any action taken (including any notification or order issued) under the corresponding provisions of the Mumbai Municipal Corporation Act, the Maharashtra Municipal Corporations Act and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965, as amended by the said Ordinance, shall be deemed to have been done, taken or issued, as the case may be, under the corresponding provisions of the said Acts, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

Section 5B of the Mumbai Municipal Corporation Act (III of 1888), section 5B of the Maharashtra Municipal Corporations Act (LIX of 1949) and section 9A of the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965 (Mah. XL of 1965), provides that, every person desirous of contesting election to a seat reserved for person belonging to Scheduled Castes, Scheduled Tribes or, as the case may be, Backward Classes of citizens, shall submit, alongwith the nomination paper, Caste Certificate issued by the Competent Authority and the Validity Certificate issued by the Scrutiny Committee in accordance with the provisions of the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (*Vimukta Jatis*), Nomadic Tribes, other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 (Mah.XXIII of 2001) and the rules made thereunder.

2. The said sections have been amended by Maharashtra Act No. XIII of 2015 with effect from the 7th April 2015, which permits the candidate to submit, alongwith the nomination papers for election to a reserved seat, a true copy of the application preferred by him to the Scrutiny Committee for issuance of the Validity Certificate or any other proof of having made such application to the Scrutiny Committee ; and an undertaking that he shall submit, within a period of six months from the date of his election, the Validity Certificate issued by the Scrutiny Committee.

3. The Caste Scrutiny Committees have been overburdened with the task of issuing the validity certificates and this resulted in difficulties for the elected candidates to obtain the Caste Validity Certificate. In view of the provisions of the relevant Municipal law, in case the elected candidate failed to produce the validity certificate, within a period of six months from the date of his election, his election would stand to be terminated retrospectively and shall stand disqualified for holding the post.

4. To ensure that the elected candidates who have already obtained the Caste Certificate and the Validity Certificate would not be disqualified merely because of failure to produce the Caste Validity Certificate issued by the Caste Scrutiny Committee in time as per the undertaking furnished by him, it was considered expedient to provide for further extension of six months to the elected candidates for submitting such certificate. In view of this, it was expedient to suitably amend section 5B of the Mumbai Municipal Corporation Act (III of 1888) and of the Maharashtra Municipal Corporations Act (LIX of 1949) and section 9A of the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965 (Mah. XL of 1965), retrospectively, i.e. the date of commencement of the Maharashtra Act No. XIII of 2015.

It was also considered expedient to make similar provisions in respect of elected Mayors of the Municipal Corporations or, as the case may be, the Presidents of the Municipal Councils or *Nagar Panchayats*.

In view of such amendments, with retrospective effect, it was expedient to incorporate the suitable saving provisions and also the provision for removal of difficulty, which may arise in giving effect to the provisions of the said Acts, due to the proposed amendment.

For achieving the above purposes, the relevant Municipal Laws were being amended, suitably.

5. As both Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Mumbai Municipal Corporation Act (III of 1888), the Maharashtra Municipal Corporations Act (LIX of 1949) and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965 (Mah. XL of 1965), for the purposes aforesaid, the Mumbai Municipal Corporation, the Maharashtra Municipal Corporations and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships (Amendment) Ordinance, 2018 (Mah. Ord. XX of 2018), was promulgated by the Governor of Maharashtra on the 27th September 2018.

6. The Bill is intended to replace the said Ordinance by an Act of the State Legislature.

Mumbai,
dated the 14th November 2018.

DEVENDRA FADNAVIS,
Chief Minister.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposal for the delegation of legislative power, namely :—

Clause 10.—Under this clause, power is taken to the State Government to issue an order published in the *Official Gazette* for removing any difficulty, which may arise in giving effect to the provisions of the Mumbai Municipal Corporation Act (III of 1888), the Maharashtra Municipal Corporations Act (LIX of 1949) and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965 (Mah. XL of 1965) as amended by this Act, within a period of two years from the date of commencement of the Amendment Act.

2. The above-mentioned proposal for delegation of the legislative power is of a normal character.

Vidhan Bhavan :
Mumbai,
Dated the 19th November, 2018.

DR. ANANT KALSE,
Principal Secretary,
Maharashtra Legislative Assembly.